

NEWINGTON TOWN PLAN AND ZONING COMMISSION

Public Hearing and Regular Meeting

April 9, 2014

Chairman Cathleen Hall called the regular meeting of the Newington Town Plan and Zoning Commission to order at 7:00 p.m. in Conference Room L101 in Newington Town Hall, 131 Cedar Street, Newington, Connecticut.

I. ROLL CALL AND SEATING OF ALTERNATES

Commissioners Present

Commissioner Frank Aieta
Commissioner Carol Anest
Commissioner Michael Camillo
Chairman Cathleen Hall
Commissioner Kenneth Leggo
Commissioner Robert Serra Sr.
Commissioner Stanley Sobieski
Commissioner Brian Andrzejewski-A

Commissioners Absent

Staff Present

Craig Minor, Town Planner

Chairman Hall: Welcome to our new alternate, seating for the first time this evening. Welcome, and don't hesitate to ask any questions. We were all new at one point, and that's how we learned, by asking questions.

Commissioner Andrzejewski: Thank you very much.

II. APPROVAL OF AGENDA

Craig Minor: I have a number of items to delete and one proposed item to add if the Commission wants to. The items to be deleted are the three applications that deal with 16 Fenn Road, the fueling station. The applicant has withdrawn. Those are public hearing petitions number C, Petition 10-14, D, Petition 12-14, those are withdrawn. Item E, for the church at 37 Ann Street, the applicants have asked to be postponed to a later meeting because they are still working with their architect, so I recommend that be taken off the agenda, but it has not been withdrawn. Also taken off the agenda is New Business, Item A, Petition 11-14, site plan approval for the fueling station because that has been withdrawn, and also being withdrawn is the petition for the free standing sign for the fueling station, so all of those items I recommend be deleted from the agenda. One item I would recommend adding, but of course it's at the discretion of the Commission, it would be New Business item E, Conservation area at 29 Packards Way. The homeowner has asked me to ask the Commission to talk about making some changes to what he is allowed to cut down in the tree preservation area, but that is for the Commission to decide whether to add it to the agenda or not.

Chairman Hall: Let's take this, first of all, as far as the additions and subtractions, any issues with that from anybody? Seeing none, we will make those adjustments as Craig has stated.

Commissioner Camillo: What you wanted to add for tonight, how about we get to take a look at it, and put it off for two weeks.

Craig Minor: Okay, fine. Okay, so just the deletions.....

Chairman Hall: That was going to be my next question, as far as the tree removal, what to we want to do about that, and Mike.....

Craig Minor: You would rather not add that tonight.

Chairman Hall: Everybody in agreement with that, so that's what we will do.

III. PUBLIC HEARINGS

A. Petition 47-13 Zoning Regulations Text Amendment (New Section 6.15: Medical Marijuana) Town Plan and Zoning Commission, applicant, Continued from March 26, 2014.

Craig Minor: This was kept open from the last meeting because the language regarding minimum floor area for a production facility was not in the draft that the Commissioners were given, and that has been added. New paragraph 6.16.5: Minimum floor area requirements, A. No medical marijuana production facility shall be allowed in a building with less than 25,000 square feet of gross floor area.

Chairman Hall: Comments before we go to the public?

Commissioner Aieta: Just a point of information, we are still at 100 feet for distance requirements to a residence zone? That's still part of the regulation as presented?

Craig Minor: Right, that did not change from the last time.

Commissioner Camillo: That's only for production.

Chairman Hall: Is there anyone from the public wishing to speak in favor of this petition? Anyone wishing to speak in opposition to this petition? Anyone wishing just to speak, to make a comment, neither yes or no? Seeing none.....

Commissioner Sobieski moved to close Petition 47-13 and move it to Old Business. The motion was seconded by Commissioner Leggo.
The vote was unanimously in favor of the motion, with six voting YES.

Chairman Hall: Okay, we will close this and move it to Old Business to be acted upon April 23rd.

B. Petition 07-14 Special Exception (Section 3.2.9: Child Care) at 795 North Mountain Road, Nguyen Holding LLC, owner/applicant; Hai Xavier Nguyen, 795 North Mountain Road, Newington, CT, contact. Continued from March 26, 2014.

Chairman Hall: Please state your name and address for the record.

Hai Xavier Nguyen, 795 North Mountain Road: I am sorry I didn't print enough, with time constraints, I only have seven copies.

Last time I was here, the vice-chair, the woman, asked me about the fence from the rear door to the playground, I took that under advice and if it is a condition to my approval I don't mind putting the fence in there and to one of the Commissioners advising me to put the bollard fence instead of a chain link fence, that's not a problem, and some of this is being notated by hand due to the fact that the surveyor didn't have enough time to produce an AutoCAD drawing of this since I got the memo from Craig on Friday and the surveyor has other work to do, and also, the catch basin is moved to outside of the playground, has a regression on the playground so that no sand will fall into that, along with the safety of all of the equipment there. Craig, the Town Planner, has a memo saying that he does not see where the snow removal would be placed in the winter and that is designated in the front of the building where the lawn is right now. I have plenty of space to place any kind of snow in there. Other than that.....

Chairman Hall: Questions from the Commissioners to Mr. Nguyen at this time?

Commissioner Sobieski: I was the one who asked about, I wanted the chain link fence left in, but I wanted balusters, or flex-beam put in front to stop any vehicles from coming down and hitting the chain link fence.

Hai Xavier Nguyen: Sorry, my misunderstanding.

Commissioner Sobieski: Okay, and the second issue that I have is that this plan says Hartford Avenue. This is actually North Mountain Road.

Hai Xavier Nguyen: Right, I asked the surveyor about that also, and he said that this arrow is pointing to, if you go west, it will be Hartford Avenue, and if you go east it will be Hartford Avenue, he did mention that so I'm not in the field so I don't know if that is the right thing to notate there, but he also has the street address there and all of the stuff, so.....

Commissioner Sobieski: My last question is, on the snow removal, what is the size of that area you're talking about?

Hai Xavier Nguyen: That is over I think 2,000 square feet, the whole lawn in front.

Commissioner Sobieski: What do you do with the snow right now?

Hai Xavier Nguyen: Right now? We just pile it against the building because from the building there is a paved, four feet paved way, so we just put the snow on top of that right now. On the back parking space where the edge of the pavement, there is a lot of room there, so all of the snow is being pushed back down that way.

Commissioner Sobieski: Well, if you pave it the way that you are doing it, will you have enough room for snow storage?

Hai Xavier Nguyen: Pushing the snow back there is no longer an option in the winter now. Everything will be pushed to the front because we have an in-house snow removal, so it is easier for us, and along here, the reason why I objected a little to having the fence block off where the back door to the playground, because part of the snow removal part, because we can utilize that to push all of the snow to the side of the building, to the west side of the building. There is plenty of space there, we could push more snow there. It's easier now for snow removal because the lot next door is empty, but I cannot always count on that, so.....

Chairman Hall: Other questions from Commissioners?

Commissioner Leggo: That distance, from where it says the existing two story, to the stone retaining wall, what is the width of that drive?

Hai Xavier Nguyen: I'm not sure, if I measured it correctly, it was about twenty three or twenty four, oh, you mean the width.....

Craig Minor: Well, if you look at the parking spaces, the parking spaces are 18 x 9, so use that as sort of a rule of thumb.

Chairman Hall: Other comments?

Commissioner Camillo: How are you going to get a big truck back there?

Hai Xavier Nguyen: My truck is not big, but the dumpster truck can get in there too.

Chairman Hall: And a truck with a plow?

Hai Xavier Nguyen: Yes, my truck has a plow. The dump truck from Windsor Sanitation fits in there.

Chairman Hall: Any other comments from the Commissioners at this time? We can revisit it after public input. Thank you. Anyone from the public wishing to speak in favor of this petition? Anyone wishing to speak in opposition? Anyone wishing to speak? Seeing none, I have a question about the handicapped parking. You have one in the back, and then one if the front. The handicapped parking in the back, would they have access to walk down the same path that the children do to get to the playground, and then come in the back way. Then the front one would come in the front obviously. I'm still concerned about the snow removal. I don't see how you are going to empty out that parking lot without space to push it up against the perimeter and then bring it out to the front of the building. I just.....

Hai Xavier Nguyen: We are planning to buy a bobcat to, like bringing the snow up front. That's is how we are going to plan to do it in the near future when the whole thing is approved, we're planning to do that, because it is easier to have the bobcat bring the snow up front.....

Chairman Hall: With the bucket?

Hai Xavier Nguyen: With the bucket, yes.

Chairman Hall: I understand that, I just think the logistics of it are daunting, so say the least, especially if we have a winter like this, because we had snow piles after two or three storms that were eight feet tall.

Hai Xavier Nguyen: Can I ask a question? Do I really have to do a fence to fence off from the back door to the playground?

Commissioner Camillo: It is for safety.

Hai Xavier Nguyen: But it's not required by the Health and Safety Department, because I understand the restriction and the concern for the snow removal, but if I don't have that fence, I would be able to push the snow towards the west side of the building, no problem at all.

Commissioner Anest: If you do that, you have that handicapped spot there, how is that person going to enter if you have a mound of snow sitting there blocking the path to walk in.

Hai Xavier Nguyen: No, we would push all the way, clear out, because it is required of us to have an exit door accessible, so.....

Commissioner Anest: So you are going to push the snow all the way to the street line, to the front of the property?

Hai Xavier Nguyen: We push it basically midway to the snow. Whatever the snow in the back, as much as possible, we push it to the west side of the building, and the rest we just bring up to the lawn in the front.

Chairman Hall: Other comments? Seeing none at the point, what is the pleasure of the Commission?

Commissioner Aieta: Close it and move it to Old Business for the next meeting consideration.

Chairman Hall: Mr. Nguyen, it seems to be the consensus of the Commission to close this, this evening so no more public hearing on it, and then we will move it to Old Business for the 23rd of April.

Hai Xavier Nguyen: Question, I don't have to bring another print next time?

Chairman Hall: No, we have these now. Thank you.

- C. Petition 10-14: Zone Change (Industrial to PD at 16 Fenn Road. Fenn Road Associates LLC, owner, The Stop & Shop Supermarket LLC, applicant; Attorney Lawrence S. Shipman, 20 Batterson Park Road, Farmington, CT, contact.**

Withdrawn

- D. Petition 12-14: Special Exception (Section 3.19.4: Fueling Station) at 16 Fenn Road, Fenn Road Associates LLC, owner, The Stop & Shop Supermarket LLC, applicant; Attorney Lawrence S. Shipman, 20 Batterson Park Road, Farmington, CT, contact.**

Withdrawn

- E. Petition 13-14: Special Exception (Section 3.2.1; Church) at 37 Ann Street, 37 Ann Street LLC, owner, Cedar Mountain Church, applicant; Stephen Cianci, 199 Back Lane, Newington, CT contact.**

Postponed

- F. Petition 15-14: Special Exception (Section 6.13; Accessory Apartment) at 244 Walsh Avenue, Calvin and Marisa Cross, owner/applicant; Donna-Jean Dargie, 1331 Silas Deane Highway, Wethersfield CT, contact.**

Chairman Hall: Would you come forward please and state your name and address for the record.

Donna Dargie, 25 Miami Avenue, Newington: I currently have 244 Walsh Avenue listed for sale. I think you have the letter that the homeowners had written to the Building Department. They purchased this home in 2005, I was their agent. I'm a real estate agent for Coldwell Banker in Wethersfield, Connecticut. I represented them in the purchase of this home, and at the time, we researched and found all permits were in place. Then the appraiser met me and the seller at the time checked, and everything was in place, so this was listed and sold, represented as a home with an in-law apartment on the second floor. We have all the permits and I'm sure all of the permits are in place. What we did discover though is that it never received a final approval. So it was to their surprise that we discovered this a few weeks ago. Just to give you a little bit of background. The current owners have lived there since 2005. Marissa Cross's parents lived upstairs in the in-law apartment. They had a fire a couple years ago in that apartment. Her mom suffered from COPD and was in the hospital after the fire, she died three weeks later. Marissa, not only just losing her mom, but in the last couple of years has a degenerative health issue and she is permanently disabled. So it's just the two, she and her husband are living in the property now. It's emotionally very difficult on her and so I feel that it's, I know, as an agent, I want to sell the house and it looks like conflict of interest, but I've known them for fifteen years. My concern is really for the sellers. As an agent, I am disclosing everything that I have to the potential buyers, and we have one at this point in time with no offer on the table but certainly they, that buyer wants to make sure that everything is in place so if they purchase it, it is in fact an in-law apartment. In working with Craig we discovered, I did send plans that I think you have of the first and second floor, meets all of the requirements except that it exceeds the, the apartment is 46.2 percent of the total square footage. The maximum allowable is 30 percent, otherwise it meets all other criteria.

After the fire permits were pulled and I have all of those as well, so everything was replaced. It was not updated, but everything that was in that apartment was replaced because of smoke damage. There are no upgrades, but basically it is the way it was with new sheetrock. I'm here tonight with the owner's son. He has a lot of concerns, and he wrote a letter and I made copies, if I could give you a copy, and if you would like to hear from him, can I do that? He is here because of his mother's health. He feels that they are somewhat a victim because they purchased this believing that it was an approved in-law apartment and now that they want to sell the property, they have been told that it was not. I'm hoping that you can make an exception in this case, so that they can sell it. If you would like, Thomas is here and he would be glad to speak on this. He has been a resident of Newington all of his life, attended schools here, and he would be glad to speak as well if you would want to hear him.

Chairman Hall: Let's take a couple of minutes to read the letter, and then we can see if we want him to speak.

Donna Dargie: I also have copies of the floor plans which I did myself, of the first and second floor.

Commissioner Aieta: Are there separate utilities for the upstairs and downstairs?

Donna Dargie: One.

Commissioner Aieta: One utility. I'm a little confused, how they purchased this under the understanding that they had an in-law apartment and with all the approvals without the approval of the zoning, because the way it sits now, it doesn't meet the square footage requirement and you say, give us an exception, and I don't know if this Commission, this Commission doesn't grant exceptions to its own rules. You would have to go to the Zoning Board of Appeals I would think.

Donna Dargie: I'm just wondering what the options are to get it approved so that two families could live there if they were related and use it as such.

Chairman Hall: In 2005 Craig, were in-law apartments on or off the books, because there was a period of time for about four years where no where in town was an in-law apartment approved, and then it came back again. Was 2005 in that period of time?

Craig Minor: I don't know.

Commissioner Aieta: I know what you are saying is correct, it was on the books, we took it off the books, we put it back on the books, but there was a period of time, not just months, it was years it was off the books but we should really know what was in place at the time.

Chairman Hall: If you can find that out? I know we brought it back about three years ago, there was at least three years previous that they were not allowed, so that would take us back six, which would bring us to 2008, so we do have to find that out. Also, my recollection of this property is that it was a ranch house originally and then at some point in time they added the second floor. When they added the second floor, was it built as an in-law, or was it built as a four bedroom house upstairs, and then they retrofitted it as an in-law?

Donna Dargie: No, it was built as an in-law.

Chairman Hall: So back when they had all the.....

Donna Dargie: Well, I have the permits and when it was built, I mean, there is a separate entrance, there's a mudroom in the first floor that was a third bedroom at one time in the ranch and they converted that into a mudroom. The door, they can have a separate entrance to go upstairs without having to go through the main house. The sellers at the time told us it was built as an in-law apartment and provided us with the permits. I went to town hall to confirm it, I don't know why it wasn't picked up as not approved.

Chairman Hall: Did the field card say it was a home with an in-law or did it just say X number of bedrooms.....

Donna Dargie: It does say, two kitchens and four bedrooms, it does not say in-law.

Chairman Hall: Right.

Donna Dargie: Converted ranch.

Commissioner Anest: So when was the original structure built?

Donna Dargie: In the fifties.

Commissioner Anest: So it wasn't built with an accessory apartment, the apartment was added on.

Donna Dargie: Right.

Commissioner Camillo: And the addition was put on?

Donna Dargie: The permits date back to 2000, some of the permits. We have c.o.'s but I know that is not one and the same, because we do have c.o.'s from the last builder who just finished.....

Commissioner Anest: C.O.'s from when they built the accessory?

Commissioner Aieta: No, after the fire.

Chairman Hall: But a c.o. is not an in-law approval. That's the whole condition, it just means it is habitable.

Commissioner Camillo: There's no way you could reduce the percent?

Chairman Hall: That would be my question Donna. Can you convert part of that second floor into a bedroom that could be accessed from the first floor, and then have a separate conforming area including the kitchen, maybe a living room, or whatever to conform with the square footage, or, could the house be sold as a four bedroom house so that you have an upstairs and a downstairs?

Donna Dargie: With the kitchen?

Chairman Hall: Well, you probably have to remove the kitchen, and that is the stove only.

Donna Dargie: Right. I'm just trying to make it easy on everybody.....

Chairman Hall: We are too, and unfortunately we have to follow certain guidelines, it isn't that we are insensitive to the issue, but we're trying to make it work too. But, going back to my original question, can you retrofit part of that second floor so that it would cut down, because right now essentially you have the same square footage up and down. So, if you took part of it, it's the second floor that you have to cut back, because it's the second floor that is considered the in-law that is non-conforming.

Commissioner Camillo: Is there an area at the top of the stairs that you could make a storage space for both parties, a common area?

Donna Dargie: There is a room, it says four bedrooms, but the fourth, which is the smallest of the four rooms, does not have a closet, so it is not a legal bedroom, even though it says four bedrooms.

Chairman Hall: Right. Could that become a den or a family room, office.....

Donna Dargie: I could certainly do that, but does there have to be construction to the, what would have to be done to the.....

Commissioner Aieta: Someone would have to come back to the Commission and ask for permission, special exception for an in-law apartment. They would have to show plans that conform to the requirements which would mean thirty percent of the total square footage is upstairs for that in-law apartment. As we sit right now, you don't have a special exception for an in-law apartment. It doesn't exist, so you can't sell it based on, you can't represent it as an in-law apartment because it doesn't exist on the books here as an in-law apartment.

Donna Dargie: Can I just ask, I have some confusion as to why, if the permits were taken and the c.o. issued, why wouldn't the approval be given, I guess I don't understand the process.

Chairman Hall: Well, the approval for a c.o. means it's habitable. They don't necessarily go to the use of the property. What you are trying to do is to use the property in a certain way, and market it as such, so that's where the slippery slope starts, when you are beginning to call it something that it isn't.

Donna Dargie: If we, could we.....

Chairman Hall: If you took part of that, and made thirty percent upstairs dedicated to the in-law and then come back and say, all right, we have the lower level and then a bedroom/den, whatever, on the second floor that belongs to the first floor.....

Donna Dargie: Could we use the living room, which is an open area that was being used as a living room, family room?

Chairman Hall: Upstairs?

Donna Dargie: Yes.

Chairman Hall: Take some room upstairs and call it a common area.

Donna Dargie: But it would have to be closed off from the rest of the area upstairs?

Craig Minor: Yes, you would have to do some, build some walls, but by doing what they are saying, you could build the walls in a certain way that takes that space out of the apartment and gives it to the house, that would reduce the apartment size, if the numbers work out to the thirty percent maximum. But you wouldn't need to withdraw, what you could do is to table the hearing at this point.....

Chairman Hall: Or just keep it open.

Craig Minor: Yes, but stop for tonight. I can work with Donna tomorrow on a revised site plan and then at the next public hearing present that to you, if we can find a way to make that work.

Chairman Hall: Because a few sheetrock walls you could probably do fairly easily. Then you will end up with your goal, which is to market it as an in-law.

Donna Dargie: Under the circumstances, it would probably be me doing that, honestly.....

Chairman Hall: You would be building it?

Donna Dargie: I would probably be working with Craig to see what has to be done, and paying for it. There are no funds to do anything at this point, I would certainly be willing to put up some sheetrock and framing, I'd be glad to work with you and see what we can do.

Commissioner Aieta: The only other option you would have is to sell it as a single family house and you tell the people who buy the house that they have the option to come to the town, make the thing to meet the requirements and ask them to come in for a special exception. That would probably be, in my opinion, the best thing to do.

Tell them that there is an option that they could have an apartment, but they would have to meet the requirements of the town, and let them build the walls and do whatever they have to do to make it to conform and they can come to the zoning board and ask for an in-law apartment. That's the other thing. Either you could do it now, go through that expense or just sell it and give them the option of coming in, maybe someone doesn't even want to buy it that way, I don't know.

Donna Dargie: Well, the buyer, the potential buyer at this point wants everything in place. They aren't going to buy it without everything in place, or approved, I should say.

Commissioner Aieta: Just trying to give you some options.

Donna Dargie: Yeah, I need to know what my options are for them.

Commissioner Aieta: As the Chairman said, we'd like to help you, but we can't stretch, take our own regulations and disregard parts for a specific situation. We're not allowed to vary our regulations.

Donna Dargie: Could it be just a, like call it an addition?

Craig Minor: Well, I'm sorry, you keep saying addition, but it is what it is, I don't understand what you mean by addition.

Donna Dargie: I guess even an addition, you wouldn't have the kitchen.

Chairman Hall: Then you are going to run into the issue with the appraiser, unless somebody pays cash for it, and then you are still going to have a bank come in, and as soon as they see that kitchen that's going to send up the red flags.

Donna Dargie: Yeah. That's where I don't understand where it fell through the cracks in 2005. It was me, along with an appraiser and an attorney, we didn't.....

Chairman Hall: Things have changed, the criteria much more stringent in 2014 than they were even two years ago. We're running into a lot of this, you aren't the only one.

Chairman Hall: This is a public hearing, so we are going to go to the public, and see if there is any input. Anyone from the public wishing to speak in favor of this petition? Come forward and state your name and address for the record please.

Thomas Bagerio, 26 Brittany Farms Road, New Britain: You did receive the letter that I did draft, thanks for allowing me to speak. My question, and I guess Donna asked the same question, in the documentation that we have, going back, all the way back to when the building was approved as a conversion. It was also assessed through the town with that finished upper story, for more than \$98,000, and I do have copies of that. Would it be listed through the town as already approved, it's again, this is where we come into the confusion, where the permits were already pulled and approved by the town, so why is it an issue now, and also if it's being assessed by the Town, then they are being taxed by the town, paying taxes on that part of the home, why is it not being classified as an apartment.

Chairman Hall: It was approved as a structure. Unless it says on the field card that it is an in-law apartment or whatever, essentially you are in an R-12 Zone. R-12 is single family. You have essentially turned your property into a two family home. You have two dwelling units.

Thomas Bagerio: Well, the previous owners did.

Chairman Hall: Okay, not you, but whoever, so therefore, you are non-conforming for R-12. If you have the approval for an in-law apartment, then you are fine. But no where on your documentation from the town does it say that you have an approved in-law apartment. That's where the disconnect is. You are saying, why didn't it happen? We can't answer that. That was fourteen years ago, it was probably a different staff in the town that was doing this at that time, so we seriously cannot answer that question.

Thomas Bagerio: Would there be anything in the town Planning and Zoning, or the documents that were signed off on by the officials?

Chairman Hall: Your building permits would say it, and they usually say right across, adding in-law apartment, or second dwelling unit or something to that affect.

Thomas Bagerio: And that's what we have.

Chairman Hall: And it says second dwelling unit?

Thomas Bagerio: This was filed on December 4, 2000 Permit Number 61143, converting ranch into a two story home, electrical, plumbing, and mechanical.

Chairman Hall: Two story home, is not two dwelling units. That simply approved raising the roof and adding more living space on the second floor. It says nothing about a separate living unit, so that was my question, can you turn that space so that it looks like a single family home, with access up and down the stairs, maybe it will be a five bedroom home.

Thomas Bagerio: Well the way that it is set up now is that there is entry to that second story from the first floor as well. I don't know if you are able to count that as having access or being part of the first floor.

Chairman Hall: It could be as long as you take your stove out. Then the issue goes away, and then your buyer would come and decide how they would want to use the property, but you would have to tell them, if they were going to have separate living units, that they do have to go before the Town and get it approved, because right now it's not approved for two separate living units. You certainly can sell it as a one family home.

Donna Dargie: I think the biggest issue is the current home owners are on the receiving end of the consequences that something wasn't done, and you know, before they purchased the home, they thought everything was in place, and it's now determined that it is not, and I think they feel that they are the ones paying the price to have to make it to code.

Chairman Hall: We do understand that, but we have to do our part, and that is to follow, because if we were to give you an exception, we would set a precedent, and it would allow anyone else in town, with this situation to come before us and say, well, we didn't know, when we bought it, it was this, it sets the precedent, and we can't do that.

Donna Dargie: I know that, and I felt that was probably the reason that it couldn't be granted, because it would set a precedent, but.....

Commissioner Aieta: For the Town Planner, you went back and saw that they never came in and asked for.....

Craig Minor: No, I have not done any research at all. I took their word that they had done research and found that they never got approved, I didn't double check that myself.

Commissioner Aieta: We should check, if they never came in, it's a moot point if they came in and they got approval, permits to make, to add extra bedrooms to a single family home, they did not come in for an in-law apartment per se. You should go back and see if they ever.....

Craig Minor: If the previous owner did.

Commissioner Anest: When you do that, you should just pull the building files and see what their application is. Does it say, because right in the application you are supposed to ask what.....

Donna Dargie: Woodland Construction company was hired in 2000 to do the work, and they have a proposal here and it just says build second floor.

Commissioner Anest: But the actual permit filed with the town, the application.

Thomas Bagerio: That's what she's got.

Commissioner Anest: No.

Craig Minor: That's Woodland's proposal to the owner.

Commissioner Aieta: But she also read the building permit.

Chairman Hall: There wasn't anything on there about building an in-law apartment.

Craig Minor: I can check in case they did actually did come before zoning and got approval, but it looks like they didn't. Very often people leave all happy that they got approval and then don't read the fine print that says you must record this in the land records. That happens all of the time.

Chairman Hall: Right.

Craig Minor: I'll do some research, I'll see if in fact the previous owners, it's possible they did get approval and a copy of that zoning approval never got into the building file. It's possible, I can find out, it's not likely, but it's possible.

Commissioner Aieta: They would be hard pressed to get approval if it was, if the square footage was what it was, because I don't think that part of the regulation changed from being in or out or whatever. I think it was always thirty percent.

Chairman Hall: It might have even been twenty-five, we might have increased it. I know it wasn't more than thirty, that's for sure.

Donna Dargie: Well, thank you.

Chairman Hall: Anyone else wishing to speak in favor of this petition? Anyone wishing to speak against? Anyone just wishing to speak? We'll leave this open until we can get some more information, and also, as I said, the years that the regulation was out. I have a fully feeling that 2005 might have been one of them.

Donna Dargie: Can I add something. There was also an issue, they received a letter two months ago saying that the assessment was going to be increased by twenty thousand dollars. I went, we had an appeal, and they did change that to keep it at the assessment, and that's really what, we were surprised that it was assessed for so much more and that it was just now being assessed, not an earlier assessment.

Chairman Hall: Was that after the repair, after the fire?

Donna Dargie: Yes.

Chairman Hall: That's why.

Donna Dargie: Even though, it was just a replacement of what was there.

Chairman Hall: It is now newer construction. So that's probably the reason, but again, we can't speak to that because that's the assessor's department, not ours, but thank you for the additional information.

G. Petition 16-14: Special Exception (Section 3.15.3; Temporary Outdoor Seating at 3260 Berlin Turnpike (Plaza Azteca) Kelban Newington LLC, owner; Manual Rubio, 3260 Berlin Turnpike, Newington CT, applicant/contact.

Chairman Hall: Is the petitioner here? Please state your name and address for the record.

Manual Rubio, 3260 Berlin Turnpike: The reason that I am here, every year we have our pretty much like Christmas, the biggest event, the biggest day that we have in the whole year which is Cinco de Mayo, which is May 5th. Every year we have been having the same style, the same event, in making sure we always follow your specifications. The ones that we had last year, it was safety, and we always make sure that all of the doors are completely open and the exit signs are always cleared. We also hire private security that usually, every year we try to increase it, get something a little more, depending on the date. Last year it was on Sunday, so it was bigger, this year it falls on Monday, and we have hired a minimum of twelve security covering the whole area, starting from the door, checking ID's, especially since families came here and there, and just make sure that people are twenty-one, checking ID's plus covering the whole restaurant. Police officers as well, we hire police officers on duty during the whole time of the event until we close, and nobody is there. Since we use the grass area in front, we have a company that actually after the event they clean up and also they renovate the whole landscape. That was pretty much the whole point of what we have been asking from you guys, so again, we have everything the way that you want. Thank God that we never had any problems, it's always safe, it's under control, we like to always keep it that way, so we make sure to have everything that you request on the day of the event.

Chairman Hall: Any questions from the Commissioners?

Commissioner Aieta: Do you plan on doing this as an annual thing every year, come back every year?

Manuel Rubio: Correct.

Commissioner Aieta: I know you have done it for at least the last three years, maybe longer.

Manuel Rubio: And actually, I will say that the restaurant and the way that we have it, we created a concept, because in each location we request to have this extra space, and it's been very successful and we have not had any problems in any city, so I guess that we build, people like to come because we always have, there's space for kids, while the family is eating, you know, they have the space for kids, the music for the crowd, so it's fun and people like it and so far it's been clean, and as you said, in all locations.

Chairman Hall: This is a public hearing, so we will be hearing from the public on this. Anyone wishing to speak in favor of this petition? Anyone wishing to speak in opposition? Anyone just wishing to speak. Seeing none, what is the pleasure of the Commission?

Commissioner Anest: Craig, did you contact the police chief to see if there had been any problems?

Craig Minor: No I did not.

Chairman Hall: I think we need to have that report before we make our final decision, which I hate to do because.....

Commissioner Aieta: If we put this off until the 23rd, that means he only has a week. I wish, I know that when they came into us there was none, and I know that they have off duty policemen there, I know most of the policemen in town, and I haven't heard anything from them that there were problems there, or any bad activities there. I'd hate to put them off, and then he is pressing the date, it's only like a week later.

Chairman Hall: Is there any way that we could do this conditional to the report, a satisfactory report from the police chief so that if you contact the police department tomorrow and it's done and we can contact Manuel and say, okay, that condition has been met, therefore go ahead, and then he will gain two weeks on that. Everybody on board with that?

Commissioner Camillo: Also, let's do it for three years so he doesn't have to come back, as long as he doesn't change anything, it's the same, three years, just come and get your permit, you're all set.

Manuel Rubio: Thank you, I appreciate that.

Chairman Hall: And I think we should also do it conditional on the police report, again, you can cross reference that without coming back to us, when he comes next year, check with the police department, were there any issues last year, and if they say no, just let it go. All right, those would be the two conditions. We are going to talk about it later, because it's not this part of the meeting, but I think if we can agree to that, then we can help them out.

Commissioner Aieta: We will move this to Old Business and then act on it tonight. Move it to Old Business, we'll discuss it again, and then at least have some kind of an answer for you tonight.

IV. **PUBLIC PARTICIPATION** (for items not listed on the Agenda; speakers limited to two minutes.)

John Bachand, 56 Maple Hill Avenue: I believe you all had a chance to review the information I sent regarding the drainage at, has to do with the Packards Way subdivision.

Chairman Hall: Yes we did, it was a video.

John Bachand: It's been an on-going issue and I don't know where else to turn. I've been a contractor for thirty years helping people with water problems, and I feel helpless in this. Just today Craig went to the site this morning and he said it is a non-issue to him. It is two days after it stopped raining and stopped flooding. With all due respect to the Planner, I strongly disagree. It is flooding on my property. Last week the developer sent an e-mail claiming that she intentionally put hay bales in the channel. I will keep them there to minimize the run-off. Well, to minimize the runoff means that it is stopping water on my property. I don't know how that is a non issue, and she asks him for guidance, unless you tell me to remove them. I don't know what his response to her is on that, I just find that incredible. I thought the whole idea of development, I thought you would have the right to drain the water in the direction that it always went, without it being delayed, deterred, twenty-four hours, forty-eight hours, whatever. I thought, maybe I'm wrong, I thought it should be able to flow through. So, I have twenty-six pages of documentation. As you know, this goes back to 2007, but it's gone back eighteen months since the first time I came here to bring it up when they started the construction again. So, I only printed one copy of this, I asked Craig if he could send the copy of the PDF form to you in an e-mail, just like the video, I don't know if he reconsidered, at first he was against it, but I think it's easier than you trying to print this for all of the members here. I guess I'll look to you as to how to get this to all of you.

Chairman Hall: Right. You will leave that with us tonight?

John Bachand: Yes.

Chairman Hall: And I will meet with Craig in the next day or so after I have had a chance to read it and go over it, and we appreciate you bringing that information to us this evening. Anybody have any questions at this time? I'll get this out to you, and will be able to scan it.....

John Bachand: Yeah, I have it in PDF, it's real simple, just click away. You know, I don't know if you recall, I've been here last September and then I was here a year before that,

Chairman Hall: I do remember.

John Bachand: There are on-going issues that I don't know how, there were certain claims that were made that said these problems would be settled having to do with a missing pipe, a plan that was supposed to be filed in the Town Clerk's office, do I need to be on the agenda to get all of these answers, or how should we do it? Piecemeal or.....

Chairman Hall: Well, I think we'd like to take care of it all at once, but let me talk to Craig at length on this, and then we will let you know how we want to move forward, and once the Commission is all informed as to what it is, because not every member that is sitting here now was on the Commission at it's inception. In other words, the beginning of your packet, many of them were not familiar with because they simply weren't here, some are.

John Bachand: Going back to 2007 I don't expect many of you were here.

Chairman Hall: So, once they get that document they will have something more to be able to have a conversation.

John Bachand: Mostly it is in the last eighteen months when construction started. What about in the interim, any kind of relief if this happens again? Right now it did drain out, you saw it today, it was drained out, you saw in the video, it was not drained out, is there any immediate action or emergency action, anything, or do you consider that a problem that I

shouldn't even be bringing up. I'm not even sure. Sometimes when people are too close to their own problem, I talked about this with Craig, and I see it all the time, sometimes people are not objective, so I could fall into that category myself. I don't think I'm over reacting, so is there any emergency, interim, what are my options if this happens again.

Chairman Hall: That is what we want to discuss and be able to give you some kind of a game plan, and as you well know, from your business, this town is very wet and what you experienced the other day, many places had it. It's just not your singular spot, but we want to deal with your singular spot right now, so if you will leave that with us, we'll have our conversation, and then let you know at that point.

John Bachand: Okay. And how would I hope to get a reply, would I come back to a meeting, or a phone call, or.....

Chairman Hall: Again, we will let you know, we'll let you know whether it's going to be, come back and present everything because now the Commissioner have everything; whether we are going to get a memo from Craig, again, I can't answer that tonight until we actually do our homework on it.

John Bachand: Okay. That twenty-five pages is all about that very microcosm of a problem.

Chairman Hall: Thank you for taking the time to come in this evening to appraise us of this information.

John Bachand: Thank you.

V. REMARKS BY COMMISSIONERS

None

VI. MINUTES:

March 26, 2014

Commissioner Sobieski moved to accept the minutes of the March 26, 2014 regular meeting. The motion was seconded by Commissioner Leggo. The vote was unanimously in favor of the motion, with six voting YES.

VII. NEW BUSINESS

- A. Petition 11-14: Site Plan Approval (Fueling Station) at 16 Fenn Road. Fenn Road Associates LLC, owner; The Stop & Shop Supermarket LLC, applicant, Attorney Lawrence S. Shipman 20 Batterson Park Road, Farmington, CT, contact.**

Withdrawn

- B. Petition 14-14: TPZ Approval (Section 3.23.1) Accessory Outside Use) for Fireworks Tent Sale at 56 Costello Road (T-Bowl Lanes) Keystone Novelties Distributors LLC, applicant, CMB Inc. owner, Chris Cook, 201 Seymour Street, Lancaster PA, contact.**

Keith Lambert, 1455 Wall Road, Pasco, Rhode Island: I'm the area manager. My job is to get locations for the company. We had set up a tent last year at this site to sell Connecticut legal fireworks and we're basically looking to do the same thing that we did last year. I know there had been issues in the past with other companies, and I'm hoping that there were no issues. I was informed that there were none as of last year, and we're just coming back to renew our application.

Chairman Hall: Any questions on this? We have the map, and that's pretty accurate, you feel that it pretty accurate the way that it is set up?

Craig Minor: Yes.

Chairman Hall: And we didn't have any complaints last year, did we?

Craig Minor: None that I know of, and I did check with the Fire Marshal and he's okay with the location again in the same spot.

Chairman Hall: Anyone have any questions?

Commissioner Aieta: What, when are you going to start and when are you going to end?

Keith Lambert: June 25th to July 5th, those that you have are last year's dates.

Craig Minor: So the correct dates are what?

Keith Lambert: It's June 25th to July 5th.

Craig Minor: Okay, and that is what is in your letter to us?

Chairman Hall: No, it's June 26th to July 6th, so it is a day off, because those are last years dates.

Keith Lambert: Those are last year's dates, when we redid this, we didn't have the new ones, this is a renewal, and it's an auto-renewal, so basically we didn't have to re-write the agreement, so it basically had those dates in there, but every year we adjust our dates.

Commissioner Aieta: You are aware of the conditions that we don't want any signs.

Keith Lambert: Oh, yes, that was the issue.

Chairman Hall: Two, three years ago.

Commissioner Aieta: So if you adhere to that, then it looks like we have no issues from last year.

Chairman Hall: Then this looks like it would be an automatic renewal to 2016, so if we approve it in '14, it would be an automatic renewal to '16 according to Item 2.
Comments, questions? Thank you. Craig, you don't have anything to add, or do you?

Craig Minor: No.

Keith Lambert: Just a question, so if you do approve this, we don't have to come back every year, is that correct.

Chairman Hall: Well, that's your contract with T-Bowl. I think we still want to make sure that this year everything is fine, so that next year when you come before us we can say, no issues last year, that's fine.

Commissioner Aieta: We have had so many problems with different vendors coming in to the same thing, and they promised us one thing and when the tents were up it was a whole different situation. They had banners up and down the highway, they had illegal signs, it was a problem, so unfortunately, we have to do it every year so that we get what we want.

Keith Lambert: Okay, no problem, I mean if we go a few more years and every thing goes well, maybe we can get it then.

Chairman Hall: Okay, thank you very much.

Keith Lambert: Does it get voted on tonight, or, how does that work.

Chairman Hall: What's the pleasure of the Commission, do you want to put this on Old Business for next time, or just take care of it tonight. Okay, we will do it on the 23rd.

Keith Lambert: Do I have to come back for that?

Chairman Hall: No, and you will be notified once we have taken our action at the next meeting. I don't see any need, do you see any need for him to come back?

Craig Minor: No.

Keith Lambert: I have a lot of meeting in the next few weeks.

Chairman Hall: I can imagine.

Keith Lambert: Thank you very much

Chairman Hall: Thank you for coming in.

Chairman Hall: I am going to have to recuse myself from Item C. Carol, if you would take over for this?

**C. Performance Bond Approval for "Harvest Ridge" (Shady Hill Lane)
Bradford Allen, owner/applicant/contact.**

Vice-Chairman Anest: Mr. Allen, if you would come forward and state your name and address for the record please?

Brad Allen, 176 Lamentation Drive, Berlin: Actually, I have been working with Craig on this, and I purchased the property, Harvest Ridge, the four remaining lots that are there, an extension of Shady Hill Lane up to the Rockledge Drive. I would like to start development of that land relatively soon, and I'm going through the process with Chris Greenlaw in Engineering and Craig just to understand the requirements as noted in the subdivision plans. The total amount of bond as listed here is about \$347,000.00 and the requirements would require me to put up that, up front as either a cash or CD Bond, and then have the same amount of money to do the development and the work, so it's really two times the cost. So I

was talking to Craig about the issues of protecting the town's interest and is there another way to approach that to allow me to have the funds to do the development work. By the way, the project is funded, there is not an issue around funding for that project. My plans are to do all of the site work, get all the utilities, the road and then build the first home, which would be my home, and that would be on one of the lots on the north side, eastern side. Actually, just a little bit of background about myself. I was a Newington resident, grew up in town, have family in town, went through the school system, moved to Berlin when I got married, actually I'm a professional by trade. I worked in the IT industry my entire career, actually retired last year and purchased this piece of property a few years back and am really looking forward to starting the project on it. I built some homes along the way on the side when I was working full time, the last two homes, the one I'm living in now in Berlin and the one next door to that one in Berlin as well.

So really it came down to really just wanting to report on this and wanting to get some relief on the amount of funds required on the bonding up front that would still satisfy the town's concerns and Craig had suggested a way of doing that with a restricted covenant where I would not be able to sell any of the pieces of property to any homeowners, which I have not at this point, and in return I would be allowed to go forward with the development work and then complete the road work, and then apply for a bond at the point where the road surface is in, and we're ready to go before any c.o. that I either come back for a performance bond for anything outstanding.

Craig Minor: This restricted covenant concept is the technique that is used in other towns when a developer, for whatever reason, doesn't wish to post a performance bond because it is very expensive. If a developer such as Mr. Allen has the means to do the work, just doesn't have the means to do the work without being able to sell lots to generate revenue, it's a good way to do that, and the Town is protected. He won't be able to sell any lots, if this concept is approved by the Commission, he won't be able to sell any of those four lots until you release him from that restricted covenant and the release is filed in the land records. So the Town is protected without it being a burden, an expensive burden to the developer.

Vice-Chairman Anest: Any Commissioners have any comments?

Commissioner Aieta: Normally he would have to put up a bond for the, the bond amount would, what would the initial bond be?

Craig Minor: Normally a developer posts the bond before he is allowed to file the mylars. Because once he files the mylar he can then, well, not he, but the developer, any developer can at that point sell lots, and unless there is a bond to protect the people who buy those lots, they Town could often become the last resort if the developer goes bankrupt and people have bought lots and expect to have a road in front of their house, so that's why normally the bond is posted before the mylar gets filed. For some reason, in this case, that didn't happen. The mylar was filed with no bond.....

Commissioner Aieta: This is for common area, roadways, storm drainage, for the overall project.

Craig Minor: Things that will become public. The town road.

Vice-Chairman Anest: And with this restricted covenant, before it is released, he would have to come before us?

Craig Minor: Yes.

Vice-Chairman Anest: For our approval.

Craig Minor: Exactly.

Vice-Chairman Anest: So if we wanted to take a field trip out there to be sure the site was completed, we could do that.

Craig Minor: Right.

Commissioner Aieta: What's the down side?

Craig Minor: There's no down side to the town. The down side to the developer is he can't sell any lots. He's going all this work, he's spending a lot of money renting construction equipment, purchasing bituminous, gravel, all that, he's spending all of that money out of pocket, with no revenue, with no income from being able to sell lots.

Commissioner Aieta: That should be enough of an incentive to be sure he finishes the work.

Commissioner Camillo: One question, do you own the lots, or does the bank own the lots?

Brad Allen: No, I do.

Commissioner Camillo: You can go to an insurance company and buy a bond that way.

Craig Minor: We don't accept insurance bonds. Cash bonds or a letter of credit.

Commissioner Sobieski: So you are talking, you're going to put the road in, sub base and the lower course, and then when the road is finished, after the development is done, he's going to put the final course on top. Is that what we are talking about here?

Craig Minor: Right.

Commissioner Aieta: He'd have to bond that. He's have to bond that portion, the finished coat he's have to bond, because that is usually the last thing that's done, the houses would be sold by then.

Commissioner Sobieski: Right, you don't want to put the finished coat on and then run equipment over it.

Vice-Chairman Anest: And you understand that.

Brad Allen: Right, the binder of the road would be in place, access to all the lots would be available, and at that point I would come for the bond for the finish, the completion of the work, and that bond an agreed upon amount, and your inspection of the area, to make sure everything I said was going to done was done, then I would be given a release. In the meantime again, the first one would be my own, because I can get started, I can't sell anything, but my plans are to build my own home, first, live on the property and then build the other three homes subsequent to that.

Commissioner Aieta: This is going to be something new that is going to be put in place, so other people now will have an opportunity to use this same vehicle in the future.

Craig Minor: Yes, normally this gets done at the time the subdivision is approved, and that's when the developer says, I'd like the option of filing with certain covenants and the Commission gives approval.

Vice-Chairman Anest: Are there any other comments from the Commission. What is the Commission's pleasure?

Craig Minor: I don't have an actual motion for you tonight, because I just wanted to make sure that the concept was acceptable, and if it is, I will come back to you next week with the actual document, with the actual restricted covenant.

Vice-Chairman Anest: Right, because you have to have....

Craig Minor: The Town Attorney will have to look at it.

Vice-Chairman Anest: Right. Thank you Mr. Allen.

Brad Allen: Come back to the next meeting?

Craig Minor: You might not need to, but I think you probably will want to, in case there are any questions.

Vice-Chairman Anest: Thank you.

D. Petition 19-14: Site Plan Modification (Tent Sale) at 3440 Berlin Turnpike (P.C. Richard & Son). A.J. Richard and Son Inc, owner/applicant; Tom Stagis, 358 Jude Lane, Southington, CT, contact.

Chairman Hall: Please state your name and address for the record please?

Tom Stagis, 358 Jude Lane, Southington: I represent P.C. Richards. I'm here tonight to get your approval for a tent sale. We held a tent sale the last two years in June in our parking lot, a 60 x 30 tent. Last year we moved the tent from the front aisle to the second aisle, we're proposing to have the tent in exactly the same location, same conditions, we have had two successful sales, and I'm just looking for approval. We are also, this year, we were advised to ask for approval for 2014 to 2016.

Chairman Hall: Questions from the Commissioners? In the packet we have the dates for '14, '15 and '16 and the hours of operation, Sunday 10:00 to 7:00, Monday through Friday, 9:00 to 9:30, and Saturday, 9:00 to 9:00.

Commissioner Anest: I have a question. Craig, under your staff comments, it says that they are showing the tent in a slightly different location than last year.

Craig Minor: Right and so I asked the Fire Marshal to take a look at it, and the Fire Marshal has no problem with it being here, but he pointed out that if it is going to be here, then both of those rows of parking within have to be closed off, so that's some thirty-eight parking spaces, previously, where the tent and trailer were, used up thirty-four spaces, and that was okay. This would be four more spaces and personally, I don't think that is a significant increase in the amount of parking that would be lost for this, but that would be up to the Commission.

Commissioner Anest: You said the tent was going to be in the same spot as last year?

Tom Stagis: It is, I think last year I think Frank was the one who asked us to move it back so we didn't restrict any.....

Craig Minor: The 2013 file shows it being.....

Tom Stagis: It was originally submitted as such, and then at this meeting last year we were asked to move it back to the second row.

Commissioner Aieta: So we would have the driveway to cut through, and clear. It worked out all right for you?

Tom Stagis: Yes, absolutely.

Commissioner Anest: So what you are showing on this is what you had last year.

Tom Stagis: Correct.

Commissioner Aieta: Talk to us about the signage.

Tom Stagis: In year one, Art Hanke came to us and asked, we had some ground signs out and he asked us to remove those, so last year we didn't propose those, nor did we use them. The signage I believe was fine.

Commissioner Aieta: I read somewhere in this.....

Tom Stagis: Yes, that was 2012.

Commissioner Aieta: So if we approve this it will be with the condition that there will be no placards along the Berlin Turnpike.

Tom Stagis: Correct.

Commissioner Aieta: You have your sign on your tent, or truck, or whatever.

Tom Stagis: We'll do that again this year.

Chairman Hall: Any other questions on this? What is the pleasure of the Commission?

Commissioner Sobieski moved to close Petition 19-14 and move it to Old Business. The motion was seconded by Commissioner Serra.

The vote was unanimously in favor of the motion, with six voting YES.

Commissioner Aieta: Move it to Old Business for tonight?

Chairman Hall: Well, did we do the last one for tonight?

Commissioner Aieta: What are the dates that you are looking for?

Tom Stagis: June 5th.

Chairman Hall: June, this is only April, and we didn't do the last one, so I think we should be consistent. You don't need to come in. Thank you very much.

VIII. OLD BUSINESS

Petition 16-14

3260 Berlin Turnpike

Special Exception (Section 3.15.3: Outside Restaurant Seating)

Manuel Rubio, applicant/contact.

Commissioner Camillo moved to approve, with conditions, Petition 16-14; Special Exception (Section 3.15.3: Outside Restaurant Seating) at 3260 Berlin Turnpike ("Plaza Azteca Restaurant") Hector Angel, owner; Manuel Rubio, applicant/contact.

Conditions:

1. There shall be no loud music played after 10:00 p.m.
2. The applicant shall hire an off-duty police officer for the evening shift, until closing as was done in previous years.
3. This approval shall be valid for three years, subject to staff approval. If the applicant wishes to conduct this event again in 2015 and 2016, he shall file notice with the Town Planner not later than March 1st of each year, with satisfactory police reports.
4. Receiving the report from the Chief of Police from last year before final approval.

The motion was seconded by Commissioner Aieta.

Chairman Hall: The approval, March of each year with satisfactory police report. It won't just be automatic. You will have to check with the police to make sure that there were no issues.

The vote was unanimously in favor of the motion, with six voting YES.

Chairman Hall: Once you have checked with the Chief of Police, just let him know what the outcome was. We are going to do Keystone and P.C. Richards on the 23rd.

IX. PETITIONS FOR PUBLIC HEARING SCHEDULING:

- A. Petition 17-14; Special Exception (Section 6.2.4: Free Standing Business Sign at 2530 Berlin Turnpike(Carefree Buildings) American Sign Inc., applicant, Margas Properties LLC, owner; Tony LaFo, American Sign 614 Ferry Street, New Haven, CT, contact.

Craig Minor: This is for a free standing sign, there is an existing sign there now, and they want to replace the message portion of it, and I told the applicant what I noticed on the site plan, that it encroaches into the highway, I said, please give me something from the DOT that you have permission to do this. Well the sign contractor called me back today and said that the sign has been there for so long that nobody at DOT can tell him how it got approved. I said, okay, I've only been here for three years, but if everyone else knows that it's been there forever, and I don't need to worry about it, that works for me. But he suggested, he offered to move it back, off of, move it back from where it is. I said, well, that's fine, but then you are going to have to hire an engineer to actually prepare that site plan to show the new location, so you might be better off just leaving it where it is, and if the Commission is satisfied that, if the Commission doesn't need a letter from DOT saying, yes, it's okay with DOT, then I don't have an issue with it.

Commissioner Aieta: How do we, as a Commission, approve something that is not on the guy's property? I mean, the sign is not on his property, it's on the state right of way.

Craig Minor: Well, technically you are not approving the foundation because the foundation has always been there. You're just approving a change to the message portion of the sign.

Commissioner Aieta: When you change that, it's a change, so we have to start from zero. I don't know how you approve something on somebody else's property. If the DOT doesn't want to give him a letter saying that's sufficient for us to say go ahead and make the changes. What if they come back later and say, they, how can this.....we ran into the same problem with the property next door where they encroached on the state right of way, Floors Now, the change to the building. It's a tight area, and that side of the street, I think the highway is closer to the actual pavement than it is on the other side. I don't know, are we overstepping our bounds saying, yeah, you can put your stuff on somebody else's property. If the state doesn't mind, I'm just surprised that the DOT would say that they have no comment about people having stuff on their right of way.

Craig Minor: No, they said they can't, it's been there for so long that they don't have any record of it.

Commissioner Camillo: Can they give him a record of it by giving him a letter?

Craig Minor: Well actually when I was speaking to Tony LaFo today, I said, Tony really, all I'm asking you to do is send them an e-mail, or send them a letter asking for whatever they have, showing that it has been there. Just do that much,

Commissioner Aieta: Get some kind of response from them.

Craig Minor: What he told me was, I told him that the other day and then he called me today and that he called them, which wasn't what I told him to do, he called them, and he was told, they didn't answer his question, what they told him was, we have no record. It wasn't an answer to the question that he asked, I think they thought helpful information on how to go forward, but he doesn't need to go forward, he already has, it is where it is. He's not asking for permission to encroach, he's just asking them to document that it has always been there, or has been for many decades.

Commissioner Sobieski: He really should get something in writing from DOT. It's on their property, it actually, if someone loses control of a car and has an accident, you will have bigger problems out there than what you have now. You really need something in writing from DOT that grants him permission, otherwise, they are probably going to make him move the sign.

Craig Minor: Well they haven't for twenty years.

Commissioner Sobieski: Well, I understand that Craig, but now you are bringing this to their attention. The issue is, it is on DOT property, it is not on his property.

Commissioner Aieta: Yeah, it's not an issue if he didn't want to come in and make a change. Now that he is asking to make a change, it brings up the point that Stan just brought up, who is culpable if there is an accident there, is the state, does it refer back to us because we approved it and let him put it there?

Craig Minor: Well, it would never revert back to us, that I could tell you, but your point is well taken, that it's not a good practice for the Commission to approve things where the owner doesn't control the property.

Commissioner Sobieski: It should be in writing, not a phone call, definitely documented.

Chairman Hall: He should go down there, it's just a trip down the pike. It's a half a mile from the building where he is trying to put the sign up.

Craig Minor: I will tell him that this issue is not going to go away, that he needs something from DOT. I'll tell him that. In that case, I would suggest that we not schedule the hearing yet, because we don't know how long it's going to take to get something from DOT.

Chairman Hall: Again, I'm wondering if that isn't another situation where they widened the road, the sign was there first, they widened the road, now all of a sudden it's on DOT property.

Commissioner Aieta: That's the original right of way.

Commissioner Anest: A right of way is a right of way.

- B. Petition 20-15: Special Exception (Section 6.2.4 Free-standing Business Sign at 16 Fenn Road, Fenn Road Associates, LLC, owner, The Stop & Shop Supermarket LLC, applicant, Attorney Lawrence S. Shipman, 20 Batterson Park Road, Farmington, CT, contact.

Withdrawn

- C. Petition 21-14: Special Exception (Section 3.2.8: Charitable and Civic Event) on Market Square (Classic Car Show) Newington Chamber of Commerce, applicant, Bob Newbold 56 Centerwood Road, Newington CT, contact.

Craig Minor: This petition was approved for three years, but that was three years ago, so now they are back for another presumably three year permit. So I recommend that the hearing be scheduled for your next meeting.

Chairman Hall: What's the date on it, June?

Commissioner Leggo: The 12th, the 19th, and the 26th of June.

Craig Minor: So, 4/23?

Chairman Hall: Definitely.

X. TOWN PLANNER REPORTS

- A. Town Planner Report for April 9, 2014

Craig Minor: No Zoning Enforcement issues to point out; Old Performance Bonds, spring has sprung, we're starting to get some movement on these old bonds, so I will probably have an actual report for you next time. Newington Junction Community Planning, I did hear from CCROG and there is a date in early May that they had suggested, and I talked with Councilman Borjeson and that date is good for him. It's not a date that there are any

regularly scheduled meetings. I'll e-mail everybody tomorrow and let you know the actual date. The first Thursday, it's the first Thursday, whatever date that is. I'll send everyone an e-mail letting you know. Sign regulations, the committee is still working on this, with some new information and looking at some new ideas, that's all I have on that for now, and Status of Modern Tire, nothing new since my last report.

Chairman Hall: Anybody have any questions for Craig?

XI. COMMUNICATIONS

None

XII. PUBLIC PARTICIPATION (for items not listed on the Agenda, speakers limited to two minutes.

None

XIII. REMARKS BY COMMISSIONERS

None

XIV. CLOSING REMARKS BY THE CHAIRMAN

Chairman Hall: Nothing really, now we can get some sleep now that the games are over. Go Huskies! I do want to have everybody look at your copy of everyone's name, address, numbers and e-mails, and if there are any corrections let's get that, because this is our working copy now. Check out your personal information. Everybody good, all your information is correct?

Commissioner Leggo: Put a line through my home phone.

Commissioner Camillo: You don't have my cell phone on there. That's the best way to get a hold of me.

Chairman Hall: Absolutely. What is your cell phone number?

Commissioner Camillo: 860 883-7595.

Chairman Hall: Of course, the whole Town of Newington now knows your cell number. So, if that is all correct, if we can have them updated, a copy, and everybody does have an e-mail on here which is good.

XV. ADJOURN

Commissioner Aieta moved to adjourn the meeting. The motion was seconded by Commissioner Sobieski. The meeting was adjourned at 8:35 p.m.

Respectfully submitted,

Norine Addis,
Recording Secretary

